

HOUSE BILL REPORT

ESHB 2537

As Amended by the Senate

Title: An act relating to the creation, operation, and management of boards of joint control.

Brief Description: Providing for modifications to the creation and operation of irrigation district joint control boards.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Honeyford, Chandler, Mastin, Clements, Schoesler, Foreman, Grant, Lisk and Mulliken).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/24/96, 2/1/96 [DPS].

Floor Activity:

Passed House: 2/13/96, 72-25.

Senate Amended.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; Boldt; Clements; Delvin; R. Fisher; Honeyford; Johnson; Murray; Ogden; Regala; Robertson and Schoesler.

Minority Report: Without recommendation. Signed by 1 member: Representative Rust.

Staff: Bill Lynch (786-7092).

Background: A board of joint control may be created to administer the operation, maintenance, betterment, and regulation of the water works, main, branch canals, water lines, and other water facilities of two or more irrigation districts and other entities which own water rights having the same natural source, and which use common works for the diversion and transportation of all or a part of their irrigation water supplies.

Most of the statutes pertaining to boards of joint control have not been amended since 1949.

Summary of Bill: A. Formation: A board of joint control may be created by two or more irrigation entities which own, or have an ownership interest in, or are trustees for owners of water rights having the same source of water or which use common works for the diversion and either transportation or drainage, or both, of all or a portion of their irrigation water supplies. An irrigation entity may be an irrigation district or an operating entity for a division within a federal reclamation project.

A board of joint control is initiated by two or more irrigation entities signing a petition and filing it with the board of county commissioners of the county which has the greater part of land irrigated from the source of water. The petition must describe the relationship of the irrigation entities to an established federal reclamation project, the primary water works of the entities, and generally show the physical relationship of the lands being watered from the water facilities.

The petition calling for the creation of a board of joint control must also propose the formula for apportioning costs among its members, and may propose the composition of the board as to membership, chair, and voting structure. The petition must state the reason for the creation of the board, any other material matter, and allege it is in the public interest for the board's creation. A map that shows the area of jurisdiction and the general location of the water supply and distribution facilities must also accompany the petition.

The notice of hearing on the petition must be published in at least three weekly issues of the official newspaper of the county. The hearing must be held no later than 30 days from the date of the first publication of the notice. The notice must also be posted at the regular meeting place of the board of each irrigation entity involved. In addition to the place and time of the hearing, the notice must state that the board, if created, will have the authority to apportion costs among the member irrigation entities to carry out its purposes.

The county commissioners may grant or reject the petition. If the county commissioners determine that the creation of the board of joint control is in the public interest and benefits the irrigation entities concerned, it adopts a resolution creating the board. The office of the board of joint control must be located in the county in which the board was created.

The county commissioners appoint the first members of the board of joint control based upon the composition of the board proposed in the petition. The term of office of joint control board members ends on the first Monday in March in the year next following their selection, and until their successors are selected. In January of each

year, the board of directors of each irrigation entity must designate in writing the names of the person or persons who will represent the entity on the board of joint control for the ensuing year. An irrigation entity is not entitled to representation on the board until it complies with the selection requirements.

The board of joint control selects its own chair and appoints a secretary. A majority of the membership of the board constitutes a quorum for transacting business, but an alternative voting scheme will be used if it was proposed in the petition and adopted by the board of county commissioners. All meetings of the board of joint control are public. At the option of the board of joint control, a person other than the county treasurer may be selected as treasurer of the board.

Members of the board of joint control may be reimbursed for their travel expenses and are compensated for services and attending meetings at a rate not to exceed \$50 per day. The total amount of additional compensation may not exceed \$4,800 in a calendar year. The amount of compensation must be fixed by resolution and entered into the minutes of the board.

B. Powers: A board of joint control may administer the construction, operation, maintenance, betterments, and regulations of joint use facilities. "Joint use facilities" are defined as those works, including reservoirs, canals, hydroelectric facilities, pumping stations, drainage works, reserved works as transferred by contracts with the United States, and system interties that are determined by the board of joint control to provide common benefit to its neighbors. A board of joint control may also administer activities and programs that promote more effective and efficient water management for the benefit of its members.

A board of joint control has authority to enter into contracts, accept grants and loans, employ and discharge staff, and to sue and be sued as a board but without personal liability of the members. A board is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and either to redistribute the saved water within the jurisdiction, or subject to state law, transfer the water to others. Any redistribution of water may not adversely affect water service to existing water users, and may not injure existing water rights. A board may not authorize a transfer of or change in a water right, or authorize a redistribution of saved water before July 1, 1997.

A board of joint control may not authorize a change in any water right that would change the point of diversion without the Department of Ecology's approval. A board cannot approve a change in a water right unless it can be made without injury to existing water rights. A board of joint control may authorize changes in water rights only in the manner that irrigation districts may authorize such changes.

A board of joint control is authorized to design, construct, and operate drainage projects and water quality enhancement projects. If a board is totally within a federal reclamation project, the board may accept operational responsibility for federal reserved works.

A board of joint control may not abridge existing rights of an individual irrigation entity, an existing board of control, or a water right within its area of jurisdiction without the consent of the party owning the water right.

A board of joint control using waters of the Yakima River must coordinate its conservation projects with federal and state programs adopted under the federal Yakima Basin Water Enhancement Project as funds are available.

Any changes to the resolution creating a board of joint control may be proposed through the same petition process for creating the board of joint control. A board of joint control is limited to the terms and conditions contained in the resolution file by the county commissioners.

The board of joint control must prepare a budget of its estimated expenses for the following calendar year each September. Notice of the hearing of the budget of a board of joint control must be published in at least two weekly issues of a newspaper of general circulation in the county. Any interested person may testify at the hearing on the budget and make objections and suggestions. After the budget is adopted, a copy is mailed to each irrigation entity showing the apportionment of the charge to each irrigation entity. Each irrigation entity must include in its levy for the ensuing year the amount apportioned and charged to it in the budget. The authority of a board of joint control to make a levy in any irrigation district that fails to include the charge adopted by the board in the irrigation district levy is repealed.

An irrigation entity under contract with a federal agency for the construction or operation of its irrigation system may not participate in a board of joint control if its participation conflicts with the provisions of the contract.

When water is provided by an irrigation entity that is a member of a board of joint control, approval for a change in place of use for a water right is required only from the board, if the water continues to be used within the joint board's jurisdiction, and the change does not injure existing rights.

Boards of joint control are made eligible for state grants and loans pertaining to water supply facilities.

EFFECT OF SENATE AMENDMENT(S): The term "source of water" is defined. A petition to create a board of joint control must also be filed with the county commissioners of each county with land irrigated from the source of water, and notice

concerning the petition must be published in each of these counties. Transfers of saved water cannot injure existing instream flow water rights outside the board's jurisdiction. Language is added to require a board to obtain the approval of the Bureau of Reclamation before changing the point of diversion, purpose of use, or place of use outside the board's jurisdiction, of any water right within a U.S. reclamation project. A board must consult with the Department of Ecology before undertaking a water conservation or system efficiency project which will result in a redistribution of saved water. If the board's jurisdiction is within a U.S. reclamation project, the board must consult and obtain the permission of the Bureau of Reclamation before commencing a project that will result in a redistribution of saved water.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This allows for more efficient use of resources. It will encourage water conservation projects, water quality improvement, joint equipment pools, and joint administrative functions. This legislation was a result of many meetings.

Testimony Against: None.

Testified: Thomas Carpenter, Jr., Carpenter Foundation; Mike Miller and Jim Willard, Roza Irrigation District; Bob Goleb and Jim Trull, Sunnyside Valley Irrigation District; Mike Schwisow, Washington State Water Resources Association (all in favor); and Dawn Vyvyan, Yakima Nation (against).